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FILED
DISTRICT COURT OF GUAM
JUL 15 2004
MARY L. M. MORAN
CLERK OF COURT

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8 *Attorneys for Defendant*
9 Honorable Felix P. Camacho
Governor of Guam

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11
12 IN THE UNITED STATES DISTRICT COURT
DISTRICT OF GUAM

13 THE GOVERNMENT OF GUAM, by and
14 through the ATTORNEY GENERAL OF
GUAM,

15 Plaintiff,

16 vs.

17 FELIX P. CAMACHO, in his official capacity
18 as the Governor of Guam,

19 Defendant.

CIVIL CASE NO. 04-00035

**DECLARATION OF MICHAEL A.
PANGELINAN IN SUPPORT OF
DEFENDANT'S OPPOSITION TO EX
PARTE APPLICATION FOR ISSUANCE
OF ORDER TO SHOW CAUSE AND
TEMPORARY RESTRAINING ORDER**

20 I, **MICHAEL A. PANGELINAN**, declare that:

21 1. I am an attorney with the law firm of Calvo and Clark, LLP, counsel of record
22 for the Governor of Guam in this case.

23 2. Upon information and belief, hereto attached as **Exhibit "A"** is a true and correct
24 copy of a letter dated July 1, 2004 by Attorney General Douglas B. Moylan to the Honorable Felix P.
25 Camacho.

26 3. Upon information and belief, hereto attached as **Exhibit "B"** is a true and correct
27
28

1 copy of a Notice of Non-Waiver of Defense to Challenge Special Prosecutor filed in *People v. Moylan*,
2 Superior Court Case No. CM864-03.

3 I declare under penalty of perjury, under the laws of the United States and of Guam, that
4 the foregoing is true and correct.

5 Executed this 15th day of July, 2004, in Tamuning, Guam.

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7 
8 MICHAEL A. PANGELINAN
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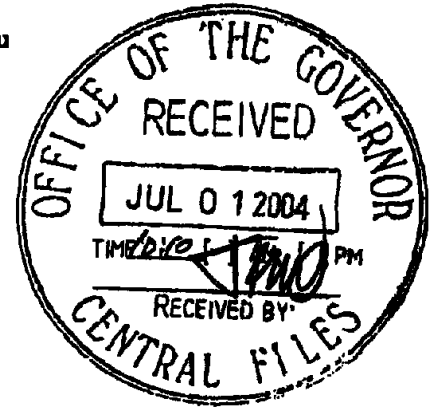


ORIGINAL COPY
CONFIRMATION

Office of the Attorney General

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July 1, 2004



Honorable Felix P. Camacho
Governor of Guam
Office of the Governor of Guam
P.O. Box 2950
Hagåtña, Guam 96910

Re: Your Request for Investigation into Possible Procurement Violations

Dear Governor Camacho:

Several weeks ago, your Acting Chief Procurement Officer, Ms. Claudia Acfalle, Department of Administration Director Lou Perez, and your Chief of Staff, Mr. Anthony Sanchez, publicly accused me and two (2) members of my staff, Mr. David Gumataotao and Mr. Joseph Cepeda, of possible criminal wrongdoing pertaining to this Office's purchase of a teleprompter machine. Ms. Acfalle engaged in a public interview, and Mr. Sanchez's wrote a "confidential" letter to Chief of Police Frank Ishizaki requesting a criminal investigation by the Guam Police Department into allegations that members of this office may have committed three different crimes under the laws of Guam. That "confidential" request was published to the media, apparently by your staff. Mr. Sanchez then requested that Police Chief Ishizaki turn over his findings to your Legal Counsel who would determine whether the appointment of a special prosecutor was warranted.

As an aside, I must inform you that your Office has no authority under the Organic Act to appoint a "special prosecutor." While it may have been true in the past that your Office may have done so, since the 1998 amendments to the Organic Act, such an appointment would be considered an unlawful and inorganic usurpation of the powers and duties of the Office of the Attorney General.

EXHIBIT "A"

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Page 2

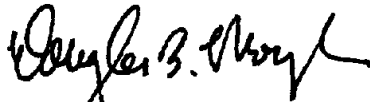
Honorable Felix P. Camacho

July 1, 2004

Nevertheless, and based upon recent news reports, the Chief of Police has indicated the Police Department has concluded its investigation. As Chief Legal Officer for the Government of Guam, I must respectfully demand that the results of the investigation be disclosed to this Office. And, as I fully expect no credible indicia of criminal wrongdoing by any member of this Office was found by the Police, it is only appropriate that the members of your Office who have besmirched the good name and character of employees of this Office publicly repudiate those allegations of criminal wrongdoing in the same manner in which they have slandered and libeled them, that is, publicly.

On behalf of Mr. Gumataotao and Mr. Cepeda, I look forward to your prompt response.

Sincerely,



Douglas B. Moylan

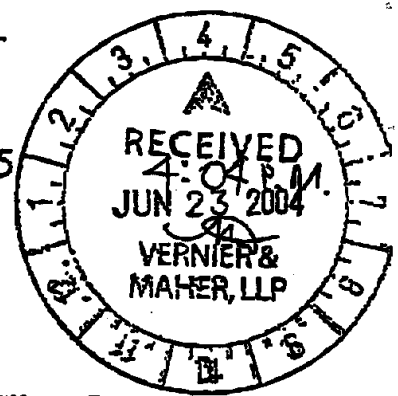
cc: Mr. David Gumataotao, Office of the Attorney General
Mr. Joseph Cepeda, Office of the Attorney General

SUPERIOR COURT
OF GUAM

JUN 23 2004 4:04 PM

CLERK OF COURT

BY:



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**IN THE SUPERIOR COURT OF GUAM
HAGÁTÑA, GUAM**

PEOPLE OF GUAM,

Plaintiff,

vs.

DOUGLAS B. MOYLAN,

Defendant.

Superior Court Case No. CM864-03

**NOTICE OF NON-WAIVER OF
DEFENSE TO CHALLENGE SPECIAL
PROSECUTOR**

To date the undersigned counsel has brought several motions to dismiss, assuming, arguendo, that the Governor has the authority to appoint a special prosecutor against the Attorney General. A challenge to the Governor's authority to appoint a special prosecutor has yet to be filed.

The undersigned counsel and client do *not* concede, nor waive the right to challenge the Governor's lack of capacity to appoint a special prosecutor, which challenge is forthcoming.

Respectfully submitted this 23rd day of June, 2004.

BERMAN O'CONNOR MANN & SHKLOV
Attorneys for Mr. Moylan

BY: 

MICHAEL J. BERMAN

Page 1

Notice of Non-Waiver of Defense to Challenge Special Prosecutor

Superior Court of Guam Case Number CM864-03

EXHIBIT "B"